

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI**

In Re: Robert E. Gramling III

Case no. 18-13020

Debtor In Possession

Chapter 11

**MOTION TO CONVERT, OR IN THE
ALTERNATIVE TO DISMISS**

Comes now, David W. Asbach, the Acting United States Trustee for Region 5, "UST," by and through undersigned counsel, pursuant to 11 U.S.C. 1112(b) and Fed. R. Bankr. P. 1017, and files this Motion to Convert to a Chapter 7 Case, or in the alternative to Dismiss the above styled and numbered case, and in support thereof will show unto the court as follows, to-wit:

JURISDICTION AND STANDING

I.

This Court has jurisdiction over this matter, pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. § 1112, and the order granting automatic reference to this Court. This matter constitutes a core proceeding pursuant to 28 U.S.C. § 157(b).

BACKGROUND

II.

On August 8, 2018, the Debtor, Robert E. Gramling, III, filed a voluntary petition for relief pursuant to 11 U.S.C. Chapter 11. The debtor is designated as a small business debtor, pursuant to the debtor's Amended Voluntary Petition, filed on October 9, 2018. *See* DKT. 39.

CAUSE FOR CONVERSION OR DISMISSAL

III.

The Chapter 11 debtor is required to file monthly operating reports. *See* Rule 2015 of the Federal Rules of Bankruptcy Procedure and the United States Trustee Chapter 11 Operating Guidelines and Reporting Requirements, as promulgated pursuant to 28 U.S.C. § 586(a)(3).

IV.

This debtor is delinquent in the filing of monthly operating reports.

V.

In addition the debtor is required to pay UST quarterly fees until such time that the Chapter 11 case is converted or dismissed. *See* 28 U.S.C. § 1930(a)(6). The UST cannot confirm that the debtor is current on the payment of UST quarterly fees in the absence of current monthly operating reports.

VI.

Failure of the debtor to remain current with the filing of monthly operating reports and the payment of UST quarterly fees are grounds to convert or dismiss this case. *See* 11 U.S.C. 1112 (b)(4)(F)(H) and (K).

VII.

The UST reserves the right to bring additional grounds for cause to convert or to dismiss this case at a hearing on this matter.

WHEREFORE, PREMISES CONSIDERED, the UST submits this motion to convert, or in the alternative dismiss the above styled and numbered case and prays that the court will enter an order sustaining this motion.

The UST prays for general relief to which entitled in these premises.

Respectfully submitted,

David W. Asbach,
Acting United States Trustee
Region 5, Districts of
Louisiana and Mississippi

by: /s/ Sammye S. Tharp
Sammye S. Tharp
Trial Attorney

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CERTIFICATE OF SERVICE

I, Sammye S. Tharp, Trial Attorney for the UST, do hereby certify that a true and correct copy of the foregoing motion to convert, or in the alternative to dismiss the above styled and numbered case has been tendered to the individuals listed below by U. S. Mail, postage prepaid, *and/or CM/ECF* on this the 29th day of January, 2019.

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/s/ Sammye S. Tharp
Sammye S. Tharp